

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DWAYNE EICHLER,

Plaintiff,

No. 2:04-cv-1108 GEB JFM (PC)

vs.

CDC OFFICER SHERBIN, et al.,

Defendants.

ORDER

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Plaintiff is a state prisoner proceeding with a civil rights action pursuant to 42 U.S.C. §1983. Plaintiff has filed pro se several motions which are pending before the court. On January 14, 2011, defendants Lebeck and Sherbin filed a motion for summary judgment. On January 27, 2011, plaintiff filed, pro se, an opposition to said motion. By order filed February 10, 2011, Glenn Peterson, Esq. was appointed to represent plaintiff in this action. On the same day, plaintiff submitted, pro se, documents for service of process on Dr. Gary Nugent. On February 25, 2011, defendant Mercy Hospital filed a motion for summary judgment. On March 1, 2011, plaintiff filed pro se a motion for an extension of time for his attorney to review this case. On March 4, 2011, defendants Lebeck and Sherbin filed a motion to stay this action pending clarification of whether counsel for plaintiff will file a further opposition to their motion for summary judgment. On March 14, 2011, plaintiff filed, pro se, two motions for extension of

1 time, one to oppose Mercy's motion for summary judgment and one to resubmit an objection  
2 plaintiff contends he mailed to the court on February 8, 2011.

3 Because plaintiff is now represented by counsel, his October 19, 2010 motions,  
4 styled as motions for temporary restraining order, concerning priority legal user status and  
5 mailing to counsel for Mercy Hospital are moot and will be denied for that reason. In addition,  
6 because plaintiff is now represented by counsel, with one exception all of the other pending  
7 motions filed by plaintiff pro se will be denied. Until further order of court, all filings in this  
8 action on plaintiff's behalf shall be made by his attorney of record.

9 Counsel for plaintiff will be directed to inform the court within thirty days  
10 whether he intends to rest on the pro se opposition to defendant Lebeck and Sherbin's motion for  
11 summary judgment or whether he intends to file a further opposition to that motion. Should  
12 counsel elect to file a further opposition, counsel shall propose a deadline for the filing thereof.  
13 The time for defendants Lebeck and Sherbin to file a reply brief is extended pending further  
14 order of court. Either party may request oral argument on said motion for summary judgment  
15 within thirty days from the date of this order.

16 Counsel for plaintiff and counsel for Mercy Hospital shall confer and submit to  
17 the court within thirty days a proposed briefing schedule for Mercy Hospital's motion for  
18 summary judgment. The parties shall indicate therein whether either or both request oral  
19 argument on the motion.

20 In accordance with the foregoing, IT IS HEREBY ORDERED that:

21 1. Plaintiff's October 19, 2010 motions are denied.

22 2. Plaintiff's March 1, 2011 motion for an extension of time for his court-  
23 appointed attorney to review this action is granted;

24 3. The March 4, 2011 motion of defendant Lebeck and Sherbin for a stay is  
25 granted;

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1           4. Within thirty days from the date of this order, counsel for plaintiff shall inform  
2 the court within thirty days whether he intends to rest on the pro se opposition to defendant  
3 Lebeck and Sherbin's motion for summary judgment or whether he intends to file a further  
4 opposition to that motion. Should counsel elect to file a further opposition, counsel shall propose  
5 a deadline for the filing thereof. The time for defendants Lebeck and Sherbin to file a reply brief  
6 is extended pending further order of court. Either party may request oral argument on said  
7 motion for summary judgment within thirty days from the date of this order.

8           5. Within thirty days from the date of this order, counsel for plaintiff and counsel  
9 for Mercy Hospital shall confer and submit to the court a proposed briefing schedule for Mercy  
10 Hospital's motion for summary judgment. The parties shall indicate therein whether either or  
11 both request oral argument on said motion.

12           6. Plaintiff's March 14, 2011 motions for extension of time (Docket Nos. 233 and  
13 234) are denied.

14 DATED: March 24, 2011.

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17 UNITED STATES MAGISTRATE JUDGE

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